THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.36770 of 1998

ORAL ORDER:

This writ petition is filed challenging the award made in I.D.No.34 of 1997 dated 19.8.1998 on the file of the Labour Court-I, Hyderabad.

Petitioner is the management. Second respondent is the workman. It appears, second respondent who was working as Mechanic in the Petitioner Depot had absented from duties from 10.2.1996 to 14.3.1996. Therefore, a charge sheet was issued, enquiry was conducted and ultimately he was removed from service vide order dated 27.6.1996. Aggrieved by the same, he preferred an appeal, which was also rejected. As such, he filed a claim petition under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Labour Court-I, Hyderabad in I.D.No.34 of 1997. It was the case of workman that the enquiry was not properly conducted and he was not given proper opportunity to defend himself. The enquiry officer gave findings contrary to the evidence on record and further the findings are perverse. Assuming the charges are proved, punishment of removal from service is disproportionate to that of the misconduct alleged. Petitioner management filed counter stating that the second respondent-workman had absented to duty from 10.2.1996 onwards and basing on the report of the Supervisor, a charge sheet was issued on 1.3.1996 and the second respondent submitted his explanation. Since the explanation was not convincing, a domestic enquiry was ordered. The workman participated in the enquiry and was given proper opportunity to

defend him. The charges were proved in full and after following the entire procedure as required under law, he was removed from service.

Before the Labour court, neither oral nor any documentary evidence was let in by the workman. On behalf of management, also no oral evidence was let in, however, documents Exs.M1 to M11 were marked. On the basis of evidence on record, Labour Court came to the conclusion that though the enquiry was valid and the charges were proved, punishment of removal from service is disproportionate to that of the misconduct alleged and therefore, while exercising its powers under Section 11-A of the I.D. Act, set aside the removal order and directed the petitioner management to reinstate the workman into service with continuity of service and attendant benefits. It was further held that there shall be a cut of 75% of backwages from 10.2.1996 to 14.3.1996. Aggrieved by the same, the present writ petition is filed.

In the facts and circumstances of the case, the Labour Court, while holding that the enquiry is valid and the charges are proved, by exercising its power under Section 11-A of the I.D. Act in its wisdom directed reinstatement of the workman with continuity of service and attendant benefits. Since the charge is only absenteeism from duty from 10.2.1996 to 14.3.1996, I am of the view that the Labour Court has not committed any error in directing reinstatement with continuity of service and attendant benefits. However, in the facts and circumstances, the Labour Court ought to have denied the back wages and ought not to have directed that there shall be a cut of 75% of backwages from 10.2.1996 to 14.3.1996. Rather, the Labour Court awarded 25% of back wages, which is unwarranted.

Under those circumstances, the impugned award is modified to be read as under:

> "The respondent-workman is ordered to be reinstated into service with continuity of service and attendant benefits, but without any backwages".

With the above modification, the writ petition is disposed of. No order as to costs.

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C.V.RAMULU, J

Date: 10.10.2007

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W.P.No.36770 of 1998

10.10.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.36770 of 1998

Date: 10th October, 2007

Between:

The Depot Manager,
APSRTC, Hyd-2 Depot,
Dilsukhnagar, Hyderabad.

.. Petitioner

And

The Presiding Officer,
Labour Court-I, Chandra Vihar,
M.J. Road, Hyderabad & another.

.. Respondents